

# BEST AVAILABLE COPY

## REMARKS

At the outset, the applicants wish to express their appreciation to the Examiner for the helpful suggestions pertaining to formal matters in the application.

By the present amendment, the applicants have cancelled claim 7 and amended claims 5, 9 and 11.

In the Office Action, the Examiner rejected claim 5 under 35 U.S.C. 112, second paragraph, indicating that it is unclear how the container is "suitable for delivery and metering." By the present amendment, claim 5 has been amended to indicate that the container is "fitted with a device" suitable for delivery and metering. The Examiner's attention is directed to the push button 4 in Fig. 1 which, at page 7, line 29 to page 8, line 2 of the Specification, is indicated to be a device to "manually regulate" the emissions of the biocidal mixture from container 1. As clearly indicated at page 1422 of Webster's Third New International Dictionary (attached hereto as Exhibit A) under the definitions for "meter" are "a device that regulates" and "to supply in a measured or regulated amount." Since push button 4 is defined in the specification to "regulate" emission from the container, it fits the definitions given for the word "meter."

The Examiner also objected to claims 7 and 9 in that the "canisters, metal cartridges, or vials" in claim 7 and the "cylinders or ampoules or tanks" in claim 9 should be shown in the

drawings or cancelled from the claims. By the present amendment, the applicants have cancelled claim 7 and amended claim 9 to delete "or ampoules or tanks." It is pointed out to the Examiner that the container 1 in Figure 1 is described at page 7, lines 26 to 27 of the Specification as a "cylinder suitable for the purposes of the invention." Thus, it is submitted that there is support in the specification and drawings for "cylinder" in claim 9.

The Examiner also rejected claims 4 to 6, 8 and 10 to 12 as being anticipated under 35, U.S.C. 102(b) by U.S. Patent No. 4,105,253, to Showalter, granted August 8, 1978. The Examiner maintains that Showalter discloses a pressurized container (36) containing a mixture of a biocide and carbon dioxide in the form of a vapor, liquid/vapor mixture, the biocide is selected from the group consisting of alkali metal hypochlorite, alkaline earth metal hypochlorite. The applicants wish to point out to the Examiner that tank 36 is described in Showalter at column 3, line 39, column 4, line 59 and column 5, line 32 as a mixing tank and not as a pressurized container. Clearly, Showalter knew of the difference between a pressurized container and a non-pressurized container since he specifically refers to tank 64 as a pressurized container at column 4, line 58 and tank 68 as a pressurized container at column 5, line 17. Although Showalter indicates at Column 3, lines 41 to 43 that pump 42, which communicates with mixing tank 36, provides injection pressure for the leaching solution, this in

itself does not result in tank 36 being a pressurized container since this pressure is intended to merely push the solution into well 14. As clearly indicated at column 3, lines 59 to 61, the solution may be introduced into the well 14 by pumping or by gravity. Thus, even if introduced into the well 14 by pumping, only a very minor amount of positive pressure is required. Thus, the applicants believe that the Examiner has mis-characterized the tank 36 of Showalter which, it is submitted, is not a pressurized container at all.

By the present amendment to claim 11, the applicants intend to make clear that the invention pertains to a "pressurized container for the delivery of biocides" and thus differentiate the subject matter of this application from the subject matter of Showalter.

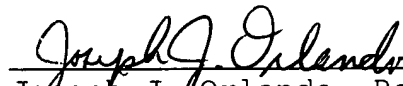
In view of the above, it is respectfully submitted that claims 4 to 6, 8 and 10 to 12 are not anticipated under 35 U.S.C. 102(b) by the Showalter patent and the rejection thereof should therefore be withdrawn. Such action is respectfully requested.

The Examiner also rejected claims 7 and 9 as being obvious under 35 U.S.C. 103(a) over the Showalter patent. The Examiner maintains that Showalter teaches all the features of the claimed invention except that the container is in the form of canisters/cylinders. It is the applicants contention that with respect to the obviousness rejection in this case, the Showalter patent is non-analogous art and would not have been looked to by a

person skilled in the art of devices for delivering biocides or disinfectants. See Heidelberger Druckmaschinen v. Hontscho Commercial Products, 30 U.S.P.Q.2d 1377, 1380 (CAFC 1994). Furthermore, as pointed out above, Showalter does not teach all of the features of the claimed invention since the tank thereof is not a pressurized container. Therefore, it is respectfully submitted that claim 9 is not obvious under 35 U.S.C. 103(a) in view of Showalter and the rejection thereof should be withdrawn. Such action is respectfully requested.

Respectfully submitted,

Giorgio VALENTINI, ET AL

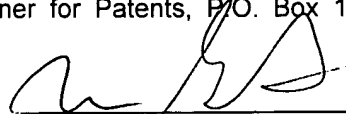


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Maria Guastella

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SPRINGFIELD, MASSACHUSETTS, U.S.A.

1966

EXHIBIT "A"

**metencephalic** \med-ə-lyk\ *adj* [NL *metencephalon* + *E* -ic] : of or relating to the metencephalon  
**metencephalon** \med-ə-lyk\ *n* [NL, *fr. meta- + encephalon*] 1 *a* : the anterior segment of the rhombencephalon b : the cerebellum and pons that evolve from this segment 2 *MYELENCEPHALON* b — used only when the anterior segment is designated *encephalon*  
**met-en-so-ma-to-sis** \med-ən-sōm-ə-tō-sis\ *n*, *pl met-en-so-matōses* [LL, *fr. L. Gk metensomatōsis, fr. Gk meta- + en- + soma-*, *sōma* body + *-sis* -osis more at some (body)] : the migration into one body of different souls — contrasted with *metempsychosis*

**met-en-ter-on** \med-ən-ter-ən\ *n* [NL, *fr. meta- + enteron*] 1 : the alimentary canal modified in any manner from the primitive archenteron 2 : one of the radial digestive chambers of an anthozoan — compare *mesenteron* — **met-en-ter-on-ic** \med-ən-ter-ən-ik\ *adj*  
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**meteoric iron** *n*: iron of meteoritic origin — compare *METEORITE*  
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**me-to-er-i-ism** \med-ē-jē-iz-əm\ *n* [*meteo-* (fr. *meteor*) + *-ism*] : MF, *fr. Gk meteorismos*, *li.* act of lifting, *fr. meteorizein* to lift, *fr. meteor* high in air, exalted (fr. *meteoros*) + *-izein* -ize) : gaseous distention of the stomach or intestine : TYMPANITES, *BLUET*

**me-to-er-ist** \med-ē-jē-ist\ *n* : a specialist in the study of meteors  
**me-to-er-ist-ic** \med-ē-jē-ist-ik\ *adj* [*me-to-er-ist* + *-ic*] : METEORIC  
**me-to-er-ist-ic** \med-ē-jē-ist-ik\ *adj* [*me-to-er-ist* + *-ic*] : METEORIC

**me-to-er-ist-ic** \med-ē-jē-ist-ik\ *adj* [*me-to-er-ist* + *-ic*] : METEORIC  
**me-to-er-ist-ic** \med-ē-jē-ist-ik\ *adj* [*me-to-er-ist* + *-ic*] : METEORIC

**me-to-er-ist-ic** \med-ē-jē-ist-ik\ *adj* [*me-to-er-ist* + *-ic*] : METEORIC  
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**me-to-er-ist-ic** \med-ē-jē-ist-ik\ *adj* [*me-to-er-ist* + *-ic*] : METEORIC  
**me-to-er-ist-ic** \med-ē-jē-ist-ik\ *adj* [*me-to-er-ist* + *-ic*] : METEORIC

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